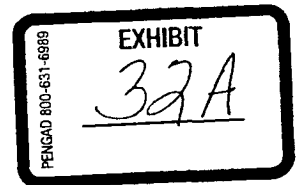




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***Additional Statement of
E. Linwood Tipton
Chairman & CEO
The Tipton Group, Inc.
Washington, DC***

**Before the USDA hearing on
Proposed Amendments to Tentative Marketing Agreements and Orders
Seeking to Amend the Class I Fluid Milk Product Definition**

Presented on behalf of:

Lifeway Foods, Inc.

June 20, 2005

**Sheraton Station Square Hotel
Pittsburgh, Pennsylvania**

Docket No. AO-14-A73, et al.; DA-03-10

**Additional Statement of E. Linwood Tipton
Chairman & CEO
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Presented on behalf of
Lifeway Foods, Inc.

Although I have already presented a statement on behalf of Lifeway Foods as well as others, Lifeway Foods has requested that I present additional testimony on their behalf specific to their proposal for the Class II classification of kefir. Over 80 percent of the kefir sold in the United States is produced and marketed by Lifeway Foods, a family-operated business in Morton Grove, Illinois. Kefir competes directly with yogurt and should be in the same class, Class II, as yogurt for all uses.

Kefir is a cultured dairy product similar to yogurt. Both products have characterizing bacterial cultures, which consumers buy based on the probiotic cultures' various health benefits, that are otherwise absent in milk.

The viscosity of kefir is very similar to yogurt. Some yogurts are a little more viscous than kefir and some are less. Kefir is within the range of viscosities of yogurt.

Kefir, like yogurt, is not usually consumed with a meal, except for breakfast. Both kefir and yogurt's snack usage is large. Most kefirs, as in the case with yogurt, are sweetened. The acidity of kefir and yogurt are about the same. Kefir and yogurt are competitive products which can be substituted for each other at various eating occasions.

We strongly urge USDA to put Kefir in Class II, the same class as yogurt.

Kefir-cultured beverages are beverages that contain the standardized ingredient kefir (or a reduced fat version), fruit juice or puree, water and/or other ingredients to provide a specific taste and viscous texture.

Currently, beverage forms of these products, if they contain 6.5 percent nonfat milk solids are Class I. If they contain less than 6.5 percent nonfat milk solids or if they are not for drinking, they are Class II. Both yogurt and kefir are often combined with other liquids such as fruit juices, purees, water and other ingredients to provide a specific taste and texture. These mixes are sometimes marketed using the name "smoothie", and in such cases yogurt or kefir are identified as ingredients, or as a product containing two foods, e.g. fruit juices and kefir or yogurt.

Cultured dairy products are one of the fastest growing segments of the dairy industry, about 5 percent per year, and yogurt and kefir are anchoring the growth. We believe kefir and yogurts that are combined with juices, other foods and water provide an excellent opportunity for dairy farmers to expand the use of dairy ingredients and should not be burdened with the additional costs of Class I classification.

Based on a number of factors, it is clear that drinkable kefir and yogurt are not milk and do not compete with fluid milk. They are not consumed in lieu of milk or as a substitute for milk. These products are frequently not sold in the same section of the store as milk, they have a substantially different texture and taste profile; and are typically packed in containers that are intended to be consumed "on the go" in a single serving. Consumers choose kefir and yogurt culture beverages for different occasions and taste reasons than when consumers elect to purchase fluid milk. In light of these distinct differences, kefir and yogurt should be classified in Class II for all uses.

Finally, while kefir and yogurt do have some distinct qualities, they are clearly both cultured products, so while we strongly urge the Class II classification of both products, it is also clear that these two should be placed together in the same class. Due to the similarities that exist, if one were to be placed in Class II, and the other in Class I, that would be a clear competitive advantage for the Class II product, and not merited by the facts given their similar composition.

In conclusion, I want to return to the theme of my earlier statement regarding the my feeling that for the U.S. dairy industry to thrive on the coming years, as I believe it can, USDA must embrace policies that encourage growth and innovation in the development of dairy products and products containing dairy ingredients.

Cultured dairy products are one such category where great opportunities exist and most especially for kefir. So I hope the Department will look at the issues relating to yogurt and kefir and see that the interests of producers and processors are truly aligned when these products are placed in a more competitive position, and not shackled by regulations which, however well-intended, have the effect of dampening the prospects for this category.

Thank you.